

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SAGENT TECHNOLOGY, INC  
Plaintiff

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CIVIL ACTION JFM-02-2505

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vs.

Baltimore, Maryland

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MICROS SYSTEMS, INC.

Defendant

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January 22, 2003

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Deposition of PETER ROGERS, JR., a witness

of lawful age, taken on behalf of the Plaintiff in the

above-entitled cause, pending in the District Court of

the United States for the District of Maryland, before

Dawn L. Venker, a Notary Public in and for Baltimore

County, Maryland, at 7031 Columbia Gateway Drive,

Columbia, Maryland 21046, on the 22 day of January,

2003.

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APPEARANCES:

SCOTT H. PHILLIPS, Esquire  
For the Plaintiff

MICHAEL H. TOW, Esquire  
For the Defendant

Reported By: Dawn L. Venker

<p style="text-align: right;">10</p> <p>1 the morning of June 6th, or thereabouts -- it was on 2 June 6th. 3 Q 2000? 4 A 2000. We were visited by Vincent 5 DeGennaro, Gene Garrett, and Dan VanVeelen. Purpose of 6 the meeting -- they requested the meeting. I believe 7 Vince was -- Mr. DeGennaro was traveling with Gene 8 assessing prospects as a corporate relationship at the 9 same time really feeling out, assessing with MICROS, 10 purchases of additional licenses. 11 At the meeting, they expressed that they 12 were going to give us an offer for all licenses. They 13 left. Later that afternoon I received a call from Mr. 14 Garrett where he gave me verbally over the phone an 15 offer. I believe five licenses, ten licenses, and 16 fifty licenses. 17 Q You said "we" a couple of times. Was there 18 any other MICROS representative present at that June 19 6th meeting? 20 A Scott Callnin was in the meeting along with 21 myself.</p>	<p style="text-align: right;">12</p> <p>1 Dan VanVeelen assessing if we were going to accept the 2 offer of purchasing licenses. 3 Q And these calls came in subsequent days I 4 assume? 5 A Yes, sir. 6 Q Did you take any notes on those subsequent 7 telephone calls? 8 A No. 9 Q Did there come a time when you called 10 Mr. Garrett back or Mr. VanVeelen to advise him of a 11 decision the company had made in that regard? 12 A The decision was made on the 30th of June. 13 Little background. The calls from Gene on 14 the 6th. He was quite concerned about his quarter -- 15 his standing at the company. They had missed numbers, 16 i.e., financial results. It was a lot of pressure, and 17 we had met prior -- a month ago and developed a pretty 18 good rapport as Mr. Callnin expressed just in the 19 relationship meeting back in early May. He had gone to 20 Wake Forest. So we talked about ACC basketball. He 21 had run track for Wake Forest. I had run track for</p>
<p style="text-align: right;">11</p> <p>1 Q So it was you and Mr. Callnin, 2 Mr. VanVeelen, Vincent DeGennaro, and Gene Garrett? 3 A Correct. 4 Q Did you take any notes during that June 6th 5 meeting? 6 A Yes. 7 Q And that meeting was held here? 8 A Yes. 9 Q And when Mr. Garrett called you later that 10 same day, did you take any notes on that telephone 11 call? 12 A Yes. 13 Q Have you produced either of those sets of 14 notes to Mr. Tow in that case? 15 A Yes. 16 Q What, if anything, followed on the 17 telephone call from Mr. Garrett once he had offered you 18 the several licenses? 19 A There were several phone calls. I cannot 20 tell exactly how many, but at least two from Gene 21 Garrett -- Mr. Garrett, as well as at least one from</p>	<p style="text-align: right;">13</p> <p>1 Penn. So developed a good rapport and clearly wasn't a 2 term of partnership. 3 So we built upon that. Didn't feel 4 negative. We are partners. We need to make numbers. 5 If we don't make numbers, may not be here. That was on 6 June 6th. 7 Q That was Mr. Garrett on June 6th? 8 A Mr. Garrett. Now, they expressed in that 9 meeting that morning that they were going to give us an 10 offer, and that they would work with us. And it would 11 be substantial in terms of licenses. 12 Q Did they elaborate any on the notion that 13 we'll work with you? 14 A Yes. They expressed that they will work 15 with us. 16 Q Did they get more specific in terms of how 17 they would work with you? 18 A That they would resell it. They talked a 19 large quantity, and that they would refund if 20 necessary. But they clearly preferred to resell it or 21 work through the channel. But they expressed their</p>

<p style="text-align: right;">18</p> <p>1 Q When you say "specific numbers," do I</p> <p>2 understand that to be the number of licenses and the</p> <p>3 exact discount that Sagent was offering you, those</p> <p>4 sorts of things?</p> <p>5 A Yes.</p> <p>6 Q Did you consider the representation that</p> <p>7 Sagent had made regarding return of the product for a</p> <p>8 full refund an important statement made by the company</p> <p>9 at that time?</p> <p>10 A Yes.</p> <p>11 Q Let me hand you, Mr. Rogers, what we'll</p> <p>12 mark as Exhibit Number 1.</p> <p>13 (Rogers Deposition Exhibit Number 1 was</p> <p>14 marked by the reporter.)</p> <p>15 Q I'll ask you if you can identify that, sir?</p> <p>16 A This is a memo that I generated to Dan</p> <p>17 VanVeelen providing a purchase order for MICROS to</p> <p>18 Sagent to acquire the data access package and</p> <p>19 analytical calculator.</p> <p>20 Q That is your signature at the bottom of the</p> <p>21 first page there?</p>	<p style="text-align: right;">20</p> <p>1 the print on this is somewhat fuzzy because it has been</p> <p>2 copied a number of times, but it looks like the date on</p> <p>3 this price quote is June 20th, 2000. Do you see that</p> <p>4 in upper right?</p> <p>5 A 6-20.</p> <p>6 Q Does that sound about right in terms of</p> <p>7 when you received this price quote from Sagent?</p> <p>8 A I don't remember, but quite conceivably.</p> <p>9 Q Let me ask you to look down in the box</p> <p>10 there. There is an item for technical support and</p> <p>11 upgrades. Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And to the right of that there's a printed</p> <p>14 number that has been stricken through, and then it</p> <p>15 looks like someone wrote 24,000 in place of that. Do</p> <p>16 you see that?</p> <p>17 A Yes.</p> <p>18 Q Do you know who did that?</p> <p>19 A No.</p> <p>20 Q Do you know why that would have been done?</p> <p>21 A I think the far right -- I believe that the</p>
<p style="text-align: right;">19</p> <p>1 A Yes.</p> <p>2 MR. PHILLIPS: For the record, Exhibit 1 is</p> <p>3 comprised of a two-page document bearing Sagent Bates</p> <p>4 numbers 32 and 33.</p> <p>5 Q What was your understanding as of June</p> <p>6 30th, 2000 as to who Mr. VanVeelen was?</p> <p>7 A Mr. VanVeelen was the regional manager who</p> <p>8 was the direct sales contact and technical contact to</p> <p>9 MICROS from Sagent.</p> <p>10 Q Did you actually type this letter on your</p> <p>11 computer?</p> <p>12 A Yes.</p> <p>13 Q And you read it before you signed it</p> <p>14 obviously?</p> <p>15 A Yes.</p> <p>16 Q And on page 2 of this document, which is</p> <p>17 S33, can you identify that for me?</p> <p>18 A This is the quote provided from Sagent to</p> <p>19 myself that I was to attach to the letter authorizing</p> <p>20 the acquisition of the product.</p> <p>21 Q Now, I think that the -- I'll admit that</p>	<p style="text-align: right;">21</p> <p>1 license fee number was different than the total. This</p> <p>2 was a matter of matching up.</p> <p>3 Q And is that your signature at the bottom of</p> <p>4 this page?</p> <p>5 A Yes.</p> <p>6 Q How about the handwriting above and below</p> <p>7 it which reads, "Approved June 30, 2000. VP business</p> <p>8 development."</p> <p>9 A That is my handwriting.</p> <p>10 Q Now, does the purchase order that you</p> <p>11 issued on June 30th, 2000 reflect the same product mix</p> <p>12 and price that is seen in the quote received from</p> <p>13 Sagent?</p> <p>14 A Yes. As far as my knowledge. My cover</p> <p>15 letter designated the software number and the technical</p> <p>16 support number.</p> <p>17 Q Is it your contention that MICROS has paid</p> <p>18 to Sagent any portion of the \$136,000 reflected on both</p> <p>19 the quote and your purchase order?</p> <p>20 A I have no contention. I'm not aware of us</p> <p>21 paying them.</p>

<p style="text-align: right;">30</p> <p>1 received this e-mail sixteen, seventeen months later?</p> <p>2 A I had a discussion earlier in the year with</p> <p>3 Mr. Callnin about why weren't we selling this product.</p> <p>4 Understand, my role is business development, was to</p> <p>5 oversee, not formally buy product lines, and I would</p> <p>6 analyze products lines quarterly. So I could see what</p> <p>7 revenue -- is being sold by a product line. I was</p> <p>8 alarmed that we had not sold anything, or very little,</p> <p>9 through the data warehouse product line. And so we met</p> <p>10 earlier in 2001 really assessing where I was with this</p> <p>11 product and the lack of sales thereof.</p> <p>12 Q When you saw that lack of sales, did you</p> <p>13 follow up with anyone on your team here at MICROS?</p> <p>14 A Spoke with a person, Ed Rothenburg, who was</p> <p>15 in the restaurant product line, and head of major</p> <p>16 accounts, Alan Heyman, to say, "We got this product.</p> <p>17 It doesn't seem to be selling," i.e., the product --</p> <p>18 our data warehouse product. And really try to push</p> <p>19 them where are we going with this product, but nothing</p> <p>20 came of that. Just understand this is a small product</p> <p>21 after a lot of different products that I look at.</p>	<p style="text-align: right;">32</p> <p>1 was engaged in discussion as to whether to send it back</p> <p>2 if we haven't had a customer, we have no purpose of</p> <p>3 holding it. Let's send it back. It was unopened. We</p> <p>4 didn't use it. No purpose for it.</p> <p>5 Q But in the context and in that</p> <p>6 conversation, did you also add on to that to make sure</p> <p>7 we get at full refund?</p> <p>8 A Yes. Returning the product would be full</p> <p>9 refund.</p> <p>10 Q This was to who? Mr. Callnin?</p> <p>11 A Mr. Tow.</p> <p>12 Q Mr. Tow. And again this was in the</p> <p>13 November 2001 time frame?</p> <p>14 A Yes.</p> <p>15 Q Are you aware if anyone at MICROS ever</p> <p>16 expressed in writing, by handwritten note, e-mail, or</p> <p>17 correspondence, the notion that this product should be</p> <p>18 returned to Sagent because, again, we are not moving</p> <p>19 it, and we are entitled to a full refund?</p> <p>20 A No.</p> <p>21 Q Mr. Rogers, I did not make a copy of this,</p>
<p style="text-align: right;">31</p> <p>1 Q At any point, did you say to anyone here at</p> <p>2 MICROS or Sagent, "Look, pursuant to our earlier</p> <p>3 agreement and understanding, we are giving this back to</p> <p>4 you, and we expect a full refund because we just can't</p> <p>5 move it"?</p> <p>6 A I did not do that. I had really -- I had</p> <p>7 no contact that I remember from Sagent past my</p> <p>8 conversation with Mr. VanVeelen in the end of June</p> <p>9 2000. I told Scott it was his responsibility in terms</p> <p>10 of the product. I had many other things to do. Really</p> <p>11 move the product along or do what has to be done in</p> <p>12 terms of evaluating this product. He was responsible</p> <p>13 with the sales force.</p> <p>14 Q Apart from any conversation you may have</p> <p>15 had with Sagent personnel, did you ever talk to anyone</p> <p>16 at MICROS, including Mr. Callnin, expressing the idea</p> <p>17 that, "Look, we need to -- it's time to send this</p> <p>18 product back to Sagent and request a full refund</p> <p>19 because my quarterly numbers show we are not moving</p> <p>20 it"?</p> <p>21 A At this time frame in November 2001 when I</p>	<p style="text-align: right;">33</p> <p>1 and I'm happy to do that and mark it if you want. I</p> <p>2 don't think it would be necessary. These are I believe</p> <p>3 the answer to interrogatories that MICROS has provided</p> <p>4 in this case, and feel free to look through them. Do</p> <p>5 they look familiar to you?</p> <p>6 A Yes.</p> <p>7 Q Let me ask you. This is the last page and</p> <p>8 feel free to look through this. Is that your signature</p> <p>9 on those answers to interrogatories?</p> <p>10 A Yes.</p> <p>11 MR. PHILLIPS: Do you have any objection to</p> <p>12 not marking those?</p> <p>13 MR. TOW: No. That is fine. Not the basis</p> <p>14 of the questions asked.</p> <p>15 Q Did you review these answers to</p> <p>16 interrogatories in order to ensure their accuracy and</p> <p>17 completeness?</p> <p>18 A Yes.</p> <p>19 Q I understand -- and it's certainly not an</p> <p>20 issue, but I just want to make sure I understand</p> <p>21 what -- that initially these were signed on your behalf</p>

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1 I believe that is escalating.

2 Q That's a component of damages that you are  
3 alleging in this case?

4 A I'm not sure how to answer that.

5 Q Have you been asked to provide any  
6 information with regard to the damages that are alleged  
7 and are prayed for in the counter-claim?

8 A No.

9 Q I think that's all I have for you on that  
10 one. Thank you.

11 MR. TOW: Should we mark that now and copy  
12 it later?

13 MR. PHILLIPS: Well, at the end of the  
14 deposition as Exhibit Number 3 the answers to  
15 interrogatories which Mr. Rogers has been asked about  
16 and has spoken to this morning -- this afternoon.

17 (Rogers Deposition Exhibit Number 3 was  
18 marked by the reporter.)

19 Q You heard Mr. Callnin speak this morning  
20 about the 12000 Baltimore Avenue address in Beltsville,  
21 correct?

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1 A I'm not contending that at all.

2 Q That would have included the analytical  
3 calculator? Are you contending that Sagent never  
4 shipped that?

5 A I'm not contending that they didn't. I  
6 just know that I placed an order for software.

7 Q Did you receive confirmation from anyone at  
8 MICROS that the totality of that order had, in fact,  
9 been received from Sagent at some point?

10 A I received indication that a package was  
11 delivered. Specific contents -- I actually physically  
12 received the package from the people in Beltsville. So  
13 I physically received a box, and I, in turn, then  
14 turned it over to Mr. Callnin. I did not open it. I  
15 do not know the date of receipt.

16 Q You heard Mr. Callnin talk this morning  
17 about what he in turn did with that box, namely put it  
18 on the shelf, right?

19 A Yes.

20 Q Is that -- is your understanding consistent  
21 with that testimony?

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1 A Yes.

2 Q And he also testified I believe that at  
3 least as of the fall 2000 time frame the receiving  
4 department was at that address?

5 A Yes.

6 Q Do you know who worked in the receiving  
7 department in Beltsville as of that time?

8 A Specifically, no. I may know of some  
9 people that were in shipping or receiving. Sort of a  
10 general term.

11 Q Do you know who received the Sagent  
12 software that was received at that address in the fall  
13 2000 time frame?

14 A No.

15 Q Do you know -- would you agree with Mr.  
16 Callnin that the Sagent software was, in fact, received  
17 at the Beltsville location in fall 2000 time frame?

18 A I'll say it was received at the Beltsville  
19 location. I don't know the exact date.

20 Q You don't -- you are not contending that  
21 the Sagent was never shipped to MICROS by Sagent?

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1 A I have no reason to dispute that.

2 Q Do you know if MICROS made any copies of  
3 software at any time?

4 A I do not know. We have a corporate policy  
5 against copying software illegally.

6 Q Is it your understanding that at some point  
7 the software was returned to Sagent?

8 A Yes.

9 Q Do you know when?

10 A Approximately December 2001.

11 Q Do you have an understanding as to whether  
12 the return of the software to Sagent occurred in one  
13 mailing or two mailings or more?

14 A I don't know.

15 Q You heard Mr. Callnin talk this morning  
16 about how the software was treated for tax purposes  
17 while it was physically here at MICROS. Do you recall  
18 that testimony?

19 A I do not.

20 Q You don't recall that testimony?

21 A No, I do not.



<p style="text-align: right;">46</p> <p>1 Q You may have been out of the room. Do you</p> <p>2 have an understanding as to how MICROS treated the</p> <p>3 software for tax purposes while it was here?</p> <p>4 A I don't know specifically.</p> <p>5 Q Do you know generally?</p> <p>6 A Treated as an asset because it was no sale</p> <p>7 for that at that point in time. That's how I would</p> <p>8 treat, it knowing, accounting. I bought an asset,</p> <p>9 because there no sale behind it at that point. This</p> <p>10 was done in advance of expected hope for future sales.</p> <p>11 Q And you have your MBA, correct?</p> <p>12 A Yes, sir.</p> <p>13 Q Would the treatment of the software as an</p> <p>14 asset by MICROS be reflected in the corporate tax</p> <p>15 returns of the company?</p> <p>16 A It would be reflected if treated as a asset</p> <p>17 in the asset side.</p> <p>18 Q Would I be able to find a line item</p> <p>19 somewhere -- I assume that the asset side ultimately</p> <p>20 comes down to one number, correct?</p> <p>21 MR. TOW: Objection as to form.</p>	<p style="text-align: right;">48</p> <p>1 discussion, or I would object to something, would no</p> <p>2 accept it.</p> <p>3 Q How would you express that disagreement or</p> <p>4 objection back do that vendor?</p> <p>5 A Either verbally or in writing. Nowadays</p> <p>6 generally by e-mail, but generally could be in writing</p> <p>7 or e-mail.</p> <p>8 Q Is it your typical practice to reflect</p> <p>9 somewhere in writing, whether it is an e-mail or a</p> <p>10 letter, the terms of a collateral agreement that MICROS</p> <p>11 had reached with that particular vendor regarding a</p> <p>12 particular transaction?</p> <p>13 A Not always. Very specific on the numbers</p> <p>14 to what we have to pay. Focus on the numbers and/or</p> <p>15 payment terms.</p> <p>16 Q Earlier you indicated that the</p> <p>17 representations that were made at the June 6th meeting</p> <p>18 and in the June 6th telephone call by Sagent were</p> <p>19 important to you in this transaction, correct?</p> <p>20 A Yes.</p> <p>21 Q Something that is elevated to that level,</p>
<p style="text-align: right;">47</p> <p>1 Q I assume that the asset side of the ledger</p> <p>2 sheet would ultimately be reflected in one number.</p> <p>3 Would that be correct?</p> <p>4 A Yes.</p> <p>5 Q And that number in turn would be derived</p> <p>6 from a series of line items above it, correct?</p> <p>7 A Correct.</p> <p>8 Q Would I be able to identify as a line item</p> <p>9 on the asset side of the ledger sheet this particular</p> <p>10 software from Sagent?</p> <p>11 A Theoretically assuming if recorded</p> <p>12 properly, yes.</p> <p>13 Q Have you at any time while you have been</p> <p>14 employed by MICROS negotiated with vendors regarding</p> <p>15 the terms of any price quote that they have provided to</p> <p>16 you?</p> <p>17 A Yes.</p> <p>18 Q Have you on any of those occasions had</p> <p>19 disagreements with any of the terms reflected in that</p> <p>20 written price quote?</p> <p>21 A I'm not sure disagreement. I would have</p>	<p style="text-align: right;">49</p> <p>1 would you typically confirm that in writing?</p> <p>2 A For something of magnitude of buying fifty</p> <p>3 licenses, yes.</p> <p>4 Q I don't necessarily mean the fifty</p> <p>5 licenses. I mean would you confirm back to Sagent in</p> <p>6 writing the notion that they had said, "Look, we'll</p> <p>7 take this stuff back if you can't move it, and we'll</p> <p>8 give you a full refund"?</p> <p>9 A I may in the past. I don't remember</p> <p>10 specifically.</p> <p>11 Q But you certainly didn't do it in this</p> <p>12 specific instance?</p> <p>13 A No.</p> <p>14 Q Are you aware -- I'm going to ask the flip</p> <p>15 side of that question. Are you aware of any</p> <p>16 documentation from Sagent to MICROS which set forth</p> <p>17 their agreement to accept for a full refund the</p> <p>18 software if you couldn't move it?</p> <p>19 A No.</p> <p>20 Q Are you aware of any documents to or from</p> <p>21 either MICROS or Sagent which reflects the notion that</p>

<p style="text-align: right;">50</p> <p>1 the contemplated transaction in Exhibit Number 1 was 2 conditional upon anything at all? 3 A It was implied because we had a partnership 4 arrangement with Sagent, and then we purchased -- 5 however we define it -- acquired a package with 6 expectations that we had prospects coming up in the 7 fall. And we purchased that or acquired it because it 8 was a requirement to get the product on the Sagent -- 9 USi data warehouse. So we had to get a demo package 10 going in order to sell it to customers. 11 So I purchased, acquired one package to get 12 the minimum required for the project to succeed. To 13 get up and have a demo package. After that, my 14 involvement really ended. I was just involved for a 15 two-month period looking at the business relation. 16 Actual execution I had no role in. 17 Q And that two-month period was early on in 18 the May to June 2000 time frame? 19 A Correct. 20 Q Mr. Rogers, let me hand you what will be 21 marked as Exhibit Number 4.</p>	<p style="text-align: right;">52</p> <p>1 Q 2000? 2 A Correct. With Gene Garrett and Dan 3 VanVeelen. 4 Q It was just the three of you in this 5 meeting? 6 A Scott Callnin was in the meeting also. 7 Q Is there any reason his name would not be 8 reflected as an attendee. 9 A No. Just he's a MICROS person. I put down 10 people generally outside. NonMICROS. 11 Q And where did that meeting occur? 12 A Here in the Columbia office building. 13 Q And one of the issues addressed during that 14 meeting was the transaction contemplated in Exhibit 15 Number 1, the 63000 purchase order? 16 A No. This meeting related to the current 17 agreement that we had with Sagent that was a 18 partnership. When I got involved in the project in 19 April and learned more about the economics, I was 20 somewhat alarmed that we would sell the product and we 21 had to share it 50-50 with Sagent. At the same time,</p>
<p style="text-align: right;">51</p> <p>1 (Rogers Deposition Exhibit Number 4 was 2 marked by the reporter.) 3 Q Have you at any time prior to today seen 4 that document? 5 A No. 6 Q Let me hand you Exhibit Number 5. 7 (Rogers Deposition Exhibit Number 5 was 8 marked by the reporter.) 9 MR. PHILLIPS: For the record, this bears 10 documents MICROS Bates number 161 through 163. 11 Q Do you recognize any of the handwriting 12 here? 13 A Yes. 14 Q Do you recognize all of the handwriting? 15 A Yes. 16 Q Whose handwriting is it? 17 A Mine. 18 Q And can you tell me what this reflects? 19 A The first page 000161 reflects my notes 20 from a meeting I believe dated 5-10-00. I didn't put 21 '00 in, but May 10th.</p>	<p style="text-align: right;">53</p> <p>1 we had to buy software from Sagent and sell it, and, 2 you know, fifty percent of the profit and the sales 3 would be going back to Sagent. So we can make very 4 little on the intellectual property. Do all the sales 5 effort, and any type of consulting, then again we had 6 to pay Sagent. We'd split 50-50. I thought that this 7 product under current relationship was uneconomical for 8 MICROS. 9 Q You were referring to the joint 10 intellectual property agreement? 11 A If that's how it is recorded. I would say 12 the business relationship. When we enter into a deal 13 with an end user, that fifty percent of the proceeds 14 would go to Sagent. 15 Q Did the June 30, 2000 purchase order come 16 up in this May 10, 2000 meeting at all? 17 A No. 18 Q I can read -- if I could, ask you to flip 19 back. I can read a lot of this, but some of it I 20 can't. Particularly the -- 21 A My handwriting isn't very good.</p>

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1 Q -- the fifth line down. The one below  
 2 "Insight agreement." The line below that. Something  
 3 "platform"?  
 4 A We had discussed -- I had discussed with  
 5 Dan VanVeelen I believe in April -- I was put in touch  
 6 with him via Scott, and I was asked to really intercede  
 7 in that program back in April by Mr. Rovani because the  
 8 first product we were going to bring up was the Insight  
 9 product on the USi. John had no knowledge about that.  
 10 So I worked with Scott's group and Tony  
 11 Seville. What's this business look like? And then I  
 12 found out about the economics of the deal, and as a  
 13 corporate officer somewhat alarmed. This is a large  
 14 company. Certain projects get sort of lost at times.  
 15 So I was involved really looking at that.  
 16 How do we improve the economics? Are we going to sell  
 17 it? How do we get this coming up? And I was concerned  
 18 literally about the economics.  
 19 So I believe that I spoke with Dan in April  
 20 and asked him how else can we restructure this, and so  
 21 this meeting I believe was prompted by Dan to really

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1 talk about moving us off of a shared 50-50 to an OEM  
 2 agreement, i.e., my comment down below, "Formulate an  
 3 OEM," which means original equipment manufacturer  
 4 agreement. That we would buy the product and then  
 5 resell it.  
 6 Q Can you read for me the last two  
 7 paragraphs?  
 8 A "Goal to enter an OEM agreement.  
 9 Multi-year. Three-year. Formulate an OEM."  
 10 Q And the paragraph below?  
 11 A "Maintenance fee per customer. Ease to  
 12 administer for an annual fee. Adjustable annually.  
 13 For install base."  
 14 Q Again, this had nothing specifically to do  
 15 with the two data load or the analytical calculator  
 16 that are contemplated in the June 30 purchase order?  
 17 A That's correct.  
 18 Q Let's turn to the next two pages. I assume  
 19 these next two reflect your notes from June 6th, 2000  
 20 meeting?  
 21 A Yes.

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1 Q We have spoken at some length already about  
 2 that meeting, correct?  
 3 A Yes.  
 4 Q And, of course, this meeting did have to do  
 5 with the software package that we are talking about in  
 6 this case, right?  
 7 A Yes.  
 8 Q The third block down there below  
 9 "discussion," can you read that one for me?  
 10 A "Prepurchase of software-possibility. Give  
 11 us a price for five and ten licenses."  
 12 Q And how about the next line below that?  
 13 A I would have had a phone call with a person  
 14 called Ms. Sherry Maye. So I would have logged that  
 15 call in after that meeting. So the line going down  
 16 below, "Scheduled me. Cofounder." The comments,  
 17 "Start up Internet company. Broadvision." Had nothing  
 18 to do with Sagent. Just my notes on the page.  
 19 Q Did the Sherry Maye call have anything to  
 20 do with Sagent?  
 21 A No.

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1 Q And then the Gene Garrett reference with a  
 2 telephone number, correct?  
 3 A Correct.  
 4 Q And below that, "Five packages. Ten  
 5 packages. Fifty packages" and the corresponding dollar  
 6 amount next to each, correct?  
 7 A Yes.  
 8 Q And the first line of page 163?  
 9 A I wrote down comments. "Payment terms."  
 10 Told me when we could pay. "One-third. One-third.  
 11 One-third." I can only -- forget what the one-third,  
 12 one-third, one-third meant. And "per package fifty  
 13 percent. \$100,000." I forget what that referred to.  
 14 Q The next gentleman with a telephone number  
 15 and "security consultant." Does that have anything to  
 16 do with this case?  
 17 A No.  
 18 Q And below that June 7 I believe?  
 19 A Correct.  
 20 Q What is that?  
 21 A That looks as though that is comments. We

15 (Pages 54 to 57)



<p style="text-align: right;">58</p> <p>1 would sit down and discuss the upcoming preparation of 2 the MICROS 10K. No relationship to Sagent. 3 Q And that takes us down to -- is it POA2? 4 A Part two. 5 Q Does that have anything to do with the 6 Sagent transaction? 7 A No. 8 Q And then we are down to January 8th? 9 A Uh-huh. 10 Q And "Mike Weintraub." Does that block of 11 handwriting through the bottom of the page have 12 anything to do with this case? 13 A No. 14 Q We've talked about the fact that page 161 15 reflects your notes on a May 10th, 2000 meeting, 16 correct? 17 A Yes. 18 Q That had nothing to do with this particular 19 case, right? 20 A In terms of the specific product purchased, 21 no, but I would say that they are somewhat connected</p>	<p style="text-align: right;">60</p> <p>1 time frame when we started working this product 2 somewhat MICROS selected Sagent software. In turn we 3 were dealing with a company called Talus. Talus was 4 bought by Sagent. So deal with Talus. We dealt with 5 Sagent. Historical relationship. 6 Q Did the direct licensing of the software 7 with Sagent have anything to do with affirmative 8 representations made by Sagent personnel? 9 A Historically? 10 Q Well, specifically. There was a decision 11 the company made to license this product directly with 12 Sagent, correct? 13 A Yes. 14 Q And what I'm trying to get at is what the 15 basis is for that decision made by MICROS was? 16 A I was not part of that. So I couldn't 17 relate to it. 18 Q Do you have an understanding of the amount 19 of money that MICROS has attributed to marketing costs 20 for the Insight product? 21 A No.</p>
<p style="text-align: right;">59</p> <p>1 just because they were Sagent. 2 Q Let me ask you this. That is fair enough. 3 During the May 10th, 2000 meeting, did any Sagent 4 representative express at that time the notion that the 5 product contemplated in the purchase order could be 6 returned for full credit if you all couldn't use it? 7 A No. 8 Q One of the allegations in the counter-claim 9 is that MICROS selected to license this software 10 directly with Sagent based in substantial part on the 11 representations made by Sagent personnel, and my 12 question to you is about that phrase "in substantial 13 part." That leads me to believe that there were other 14 factors that led to that decision by MICROS. Are you 15 aware of yours? 16 A I don't understand the definition "in 17 substantial part." 18 Q Do you have an understanding as to why 19 MICROS ultimately elected to license this software 20 directly with Sagent? 21 A Because we had back in I believe the 1998</p>	<p style="text-align: right;">61</p> <p>1 Q Is there some person or group within MICROS 2 that would track those dollars? 3 A Specifically for a project directly, no. 4 Q You seem to be indicating that there might 5 be a more general reflection of those numbers 6 somewhere? 7 A I think specifically if someone was asked 8 to come up with numbers, would have to go back and look 9 at invoices. It would be a specific data research and 10 analysis of direct dollars and of evaluation of time. 11 Q Let me hand you what I'll mark as Exhibit 12 Number 6. 13 (Rogers Deposition Exhibit Number 6 was 14 marked by the reporter.) 15 Q You are free to review the whole thing. I 16 have very limited questions. It is on the first page. 17 A I would just like to look at the whole 18 document. 19 Q Absolutely. 20 A I'm ready to answer. 21 Q You'll see some handwriting on the top</p>